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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,464	11/28/2006	Christoph Strassler	2084.5	6837
7590 Hammer & Hanf 3125 Springbank Lane Suite G Charlotte, NC 28226				
			EXAMINER CHU, YONG LIANG	
			ART UNIT 1626	PAPER NUMBER
			MAIL DATE 04/11/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/560,464

Applicant(s)

STRASSLER ET AL.

Examiner

YONG CHU

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-13 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1-13 are currently pending in the instant application and are subject to the following lack of unity requirement. A telephone call was made to Mr. Scott E. Hanf on 03/31/2008 to request an oral election to the above restriction requirement, but did not result in an election being made. Applicants prefer written restriction requirement Office action.

Election/Restrictions

Restriction is required under 35 U.S.C. 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Claims 1-13 are drawn to more than one inventive concept (as defined in PCT Rule 13), and accordingly, a restriction is required according to the provision of PCT Rule 13.2

PCT Rule 13.2 states that the international application shall relate to one invention only or to a group of inventions so linked as to form a general inventive concept (requirement of unity of invention).

PCT Rule 13.2 states that unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features.

Claims 1-13 are drawn to two crystalline forms (i.e. δ -crystalline and ϵ -crystalline forms) of perindopril erbumine, characterized by the distinct X-ray diffraction data, are

therefore drawn to more than one inventive concept. In addition perindopril erbumine was disclosed in 2003 by FDA as a white, crystalline powder under drug name ACEON®. Because claims 1-13 contain various distinct special technical features, and the inventions lack of unity. For this reason, further restriction is required.

Group I: Claims 1, 3, and 4 are drawn to δ -crystalline form of perindopril erbumine, characterized by the distinct X-ray diffraction data, or medicaments containing said crystalline form.

Group II: Claims 2, 9, and 10 are drawn to ϵ -crystalline form of perindopril erbumine, characterized by the distinct X-ray diffraction data, or medicaments containing said crystalline form.

Group III: Claims 5 and 6 are drawn to a method for the treatment of cardiovascular diseases comprising administering said δ -crystalline form of perindopril erbumine, or said medicaments according to claim 1.

Group IV: Claim 7 is drawn to a process for the preparation of δ -crystalline form of perindopril erbumine according to claim 1.

Group V: Claim 8 is drawn to a process for the preparation of ϵ -crystalline form of perindopril erbumine according to claim 2.

Group VI: Claim 11 is drawn to a method for the preparation medicaments comprising δ -crystalline form of perindopril erbumine according to claim 1.

Group VII: Claim 12 is drawn to a method for the preparation medicaments comprising ϵ -crystalline form of perindopril erbumine according to claim 1.

Group VIII: Claim 13 is drawn to a method for the treatment of cardiovascular diseases comprising administering said ϵ -crystalline form of perindopril erbumine according to claim 2, or said medicaments.

Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong Chu whose telephone number is 571-272-5759. The examiner can normally be reached on 7:00 am - 3:30 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Status Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Yong Chu, Ph.D./
Patent Examiner, AU 1626

